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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,926	04/12/2001	Yushi Niwa	072982/0219	5238
22428 7590 08/08/2007 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER CASLER, TRACI	
			ART UNIT 3629	PAPER NUMBER
			MAIL DATE 08/08/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/832,926	<b>Applicant(s)</b> NIWA, YUSHI	
	<b>Examiner</b> Traci L. Casler	<b>Art Unit</b> 3629	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is in response to papers filed on July 10, 2007

Claims 1, 3-8, 10-18, 20-27 and 29-38 are pending.

Claims 1, 3-8, 10-18, 20-27 and 29-38 are rejected.

#### ***Response to Arguments***

1. Applicant's arguments filed 1, 3-8, 10-18, 20-27 and 29-38 have been fully considered but they are not persuasive.
2. The applicant argues that the disclosure teaches one of ordinary skill in the art how to determine a tolerance factor and how to compute a tolerance value. The applicant states that an event held with "traffic control" the factor "may" change. This does not disclose how one would know whether or not the factor "may" change. Even if the factor does change how does one know how to determine the change value. The applicant gives an example of a new expressway where not tolerance arises and the change in tolerance value is reflected, similarly a railway schedule is revised and the tolerance table is treated in the same way. How does know how to "revise" the tolerance table based on the revised rail schedule. As well as how does "No tolerance" result in a change in a tolerance value and is determined.
3. The applicant argues that "historical data" is use for a specific date but yet states that in order to determine a tolerance for a Redskins game the system KNOWS before hand that a game is taking place. Again, the examiner states that if the tolerance is for a specific DATE and TIME then historical information for a Redskins game is not appropriate considering it wont' be on the same DATE the following year. Furthermore,

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applicant's argument that the factors are known before hand for the NEXT Redskins game does not mesh with applicant's assertion that "historical" data is being used.

4. By applicant's own admission there are various ways to "COMPUTE A FACTOR" and it is not necessary to describe in precise terms a particular way. The examiner asserts that a particular way must be taught otherwise separate individuals of ordinary skill trying to reproduce repeatable results would not all end up with the same result. Applicant fails to provide computation criteria to be used in computing factors therefore it is subjective as to what computation one uses thus resulting in different outcomes.

5. Applicant argues that the "maintenance" of the factors is "improving" the accuracy of the factor by repetitive receipt of information. However, the examiner notes as the applicant points to Pg. 32 line 25+ in which applicant discloses a maintenance system that "renews or reconsiders" and a NEW preparation. The New factor replaces the old factor meaning the old factor does not exist therefore does not play into the calculation of tolerance or factors.

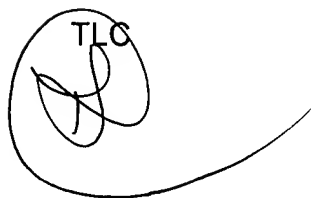
### ***Conclusion***

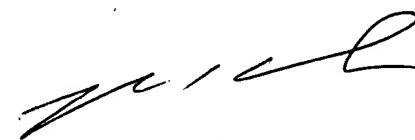
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TLC  


  
SUPERVISOR  
EXAMINER  
3600